

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 767**

**Introduced by Senator Romero**

February 22, 2005

---

An act to amend Sections 94736, 94739, ~~94746~~, ~~94740.3~~, ~~94740.5~~, ~~94746~~, ~~94802~~, ~~94905~~, ~~94945~~, and 94960 of the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 767, as amended, Romero. Private postsecondary institutions: exemption from approval.

(1) Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989 (private postsecondary act), generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. By its own terms, the act is repealed as of January 1, 2008.

An existing provision of the act defines the terms "Occupational Associate Degree," "Associate of Occupational Studies," and "Associate of Applied Science" to mean an associate degree that may be awarded to students who complete an occupational program that provides preparation for employment in an occupational field, and specifies several types of associate degrees that are included within this definition.

This bill would specify that the AA or Associate Arts degree is included within this definition.

(2) An existing provision of the act specifies the types of institutions that are not included within the scope of the act, including institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges that are incorporated and lawfully operating as either public benefit corporations or for-profit institutions.

This bill would provide that, notwithstanding these provisions, these *institutions that are for-profit* institutions are subject to the student and consumer protections and the bureau's oversight and the requirements of the act with respect to all of the vocational programs of instruction offered by the institution to the extent these protections and requirements would otherwise apply, given the characteristics and particulars of that program of instruction.

(3) *Existing provisions of the act define "non-WASC regional accrediting agency" and "non-WASC regionally accredited institution," and thus make a distinction between the Western Association of Schools and Colleges (WASC) and other regional accrediting agencies and the institutions that are accredited by these agencies.*

*This bill would delete the terms "non-WASC regional accrediting agency" and "non-WASC regionally accredited institution" from the act, and replace these terms with "regional accrediting agency" and "regionally accredited institution," and thus delete the distinction between WASC and other regional accrediting agencies from the act.*

(4) An existing provision of the act defines "vocational diploma program" as an educational program meeting specified criteria.

This bill would change that term to "vocational program," and would specify that one of the criteria to be met by a "vocational program" would be met by the awarding of any of each category of degree listed in the act's definition of "occupational associate degree."

~~(4)~~

(5) An existing provision of the act requires the bureau to forward complaints to the Western Association of Schools and Colleges that the bureau receives pertaining to institutions accredited by that association.

This bill would specify that the bureau would forward these complaints when it has no oversight responsibility for the programs of instruction or for the institution that is the subject of the complaint.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 94736 of the Education Code is  
2 amended to read:

3 94736. “Occupational Associate Degree,” “Associate of  
4 Occupational Studies,” or “Associate of Applied Science”  
5 designated by terms including, but not necessarily limited to,  
6 AOS (Associate Occupational Studies), AA (Associate Arts),  
7 AAS (Associate Applied Science), AST (Associate Specialist  
8 Technical), or ASB (Associate Specialist Business) means an  
9 associate degree that may be awarded to students who complete  
10 an occupational program that provides preparation for  
11 employment in an occupational field.

12 SEC. 2. Section 94739 of the Education Code is amended to  
13 read:

14 94739. (a) “Private postsecondary educational institution”  
15 means any person doing business in California that offers to  
16 provide or provides, for a tuition, fee, or other charge, any  
17 instruction, training, or education under any of the following  
18 circumstances:

19 (1) A majority of the students to whom instruction, training, or  
20 education is provided during any 12-month period is obtained  
21 from, or on behalf of, students who have completed or terminated  
22 their secondary education or are beyond the age of compulsory  
23 high school attendance.

24 (2) More than 50 percent of the revenue derived from  
25 providing instruction, training, or education during any 12-month  
26 period is obtained from, or on behalf of, students who have  
27 completed or terminated their secondary education or are beyond  
28 the age of compulsory high school attendance.

29 (3) More than 50 percent of the hours of instruction, training,  
30 or education provided during any 12-month period is provided to  
31 students who have completed or terminated their secondary

1 education or are beyond the age of compulsory high school  
2 attendance.

3 (4) A substantial portion, as determined by the bureau, by  
4 regulation, of the instruction, training, or education provided is  
5 provided to students who have completed or terminated their  
6 secondary education or are beyond the age of compulsory high  
7 school attendance.

8 (b) The following are not considered to be private  
9 postsecondary educational institutions under this chapter:

10 (1) Institutions exclusively offering instruction at any or all  
11 levels from preschool through the grade 12.

12 (2) Institutions offering education solely avocational or  
13 recreational in nature, and institutions offering this education  
14 exclusively.

15 (3) Institutions offering education sponsored by a bona fide  
16 trade, business, professional, or fraternal organization, solely for  
17 that organization's membership.

18 (4) Postsecondary or vocational educational institutions  
19 established, operated, and governed by the federal government or  
20 by this state, or its political subdivisions.

21 (5) Institutions offering continuing education where the  
22 institution or the program is approved, certified, or sponsored by  
23 any of the following:

24 (A) A government agency, other than the bureau, that licenses  
25 persons in a particular profession, trade, or job category.

26 (B) A state-recognized professional licensing body, such as  
27 the State Bar of California, that licenses persons in a particular  
28 profession, trade, or job category.

29 (C) A bona fide trade, business, or professional organization.

30 (6) A nonprofit institution owned, controlled, and operated and  
31 maintained by a bona fide church, religious denomination, or  
32 religious organization comprised of multidenominational  
33 members of the same well-recognized religion, lawfully  
34 operating as a nonprofit religious corporation pursuant to Part 4  
35 (commencing with Section 9110) of Division 2 of Title 1 of the  
36 Corporations Code, if the education is limited to instruction in  
37 the principles of that church, religious denomination, or religious  
38 organization, or to courses offered pursuant to Section 2789 of  
39 the Business and Professions Code, and the diploma or degree is  
40 limited to evidence of completion of that education, and the

1 meritorious recognition upon which any honorary degree is  
2 conferred is limited to the principles of that church, religious  
3 denomination, or religious organization. Institutions operating  
4 under this paragraph shall offer degrees and diplomas only in the  
5 beliefs and practices of the church, religious denomination, or  
6 religious organization. The enactment of this paragraph expresses  
7 the legislative intent that the state shall not involve itself in the  
8 content of degree programs awarded by any institution operating  
9 under this paragraph, as long as the institution awards degrees  
10 and diplomas only in the beliefs and practices of the church,  
11 religious denomination, or religious organization. Institutions  
12 operating under this paragraph shall not award degrees in any  
13 area of physical science. Any degree or diploma granted in any  
14 area of study under these provisions shall contain on its face, in  
15 the written description of the title of the degree being conferred,  
16 a reference to the theological or religious aspect of the degree's  
17 subject area. Degrees awarded under this paragraph shall reflect  
18 the nature of the degree title, such as "associate of religious  
19 studies," or "bachelor of religious studies," or "master of  
20 divinity" or "doctor of divinity." The use of the degree titles  
21 "associate of arts" or "associate of science," "bachelor of arts" or  
22 "bachelor of science," "master of arts" or "master of science," or  
23 "doctor of philosophy" or "Ph.D." shall only be awarded by  
24 institutions approved to operate under Article 8 (commencing  
25 with Section 94900) or meeting the requirements for an  
26 exemption under Section 94750. The enactment of this paragraph  
27 is intended to prevent any entity claiming to be a nonprofit  
28 institution owned, controlled, and operated and maintained by a  
29 bona fide church, religious denomination, or religious  
30 organization comprised of multidenominational members of the  
31 same well-recognized religion, lawfully operating as a nonprofit  
32 religious corporation pursuant to Part 4 (commencing with  
33 Section 9110) of Division 2 of Title 1 of the Corporations Code,  
34 from marketing and granting degrees or diplomas that are  
35 represented as being linked to their church, religious  
36 denomination, or religious organization, but which, in reality, are  
37 degrees in secular areas of study. An institution operating under  
38 this paragraph shall file annually with the bureau evidence to  
39 demonstrate its status as a nonprofit religious corporation under  
40 the Corporations Code. A college or university operating under

1 this paragraph shall file annually with the bureau evidence to  
2 demonstrate its status as a nonprofit religious corporation under  
3 the Corporations Code.

4 (7) (A) Public institutions accredited by the Accrediting  
5 Commission for Senior Colleges and Universities or the  
6 Accrediting Commission for Community and Junior Colleges of  
7 the Western Association of Schools and Colleges.

8 (B) Institutions accredited by the Accrediting Commission for  
9 Senior Colleges and Universities or the Accrediting Commission  
10 for Community and Junior Colleges of the Western Association  
11 of Schools and Colleges that are incorporated and lawfully  
12 operating as a nonprofit public benefit corporation pursuant to  
13 Part 2 (commencing with Section 5110) of Division 2 of Title 1  
14 of the Corporations Code and that are not managed by any entity  
15 for profit.

16 (C) (i) For-profit institutions accredited by the Accrediting  
17 Commission for Senior Colleges and Universities or the  
18 Accrediting Commission for Community and Junior Colleges of  
19 the Western Association of Schools and Colleges.

20 (ii) Notwithstanding this subdivision, an institution that meets  
21 the requirements of this subparagraph but also meets any of the  
22 criteria of subdivision (a) shall be subject to the student and  
23 consumer protections and the bureau's oversight and the  
24 requirements of this chapter with respect to all of the vocational  
25 programs of instruction offered by the institution to the extent  
26 these protections and requirements would otherwise apply, given  
27 the characteristics and particulars of that program of instruction.

28 (D) ~~(i)~~ Institutions accredited by the Western Association of  
29 Schools and Colleges that do not meet all of the criteria in  
30 subparagraph (B) and that are incorporated and lawfully  
31 operating as a nonprofit public benefit corporation pursuant to  
32 Part 2 (commencing with Section 5110) of Division 2 of Title 1  
33 of the Corporations Code, that have been in continuous operation  
34 since April 15, 1997, and that are not managed by any entity for  
35 profit.

36 ~~(ii) Notwithstanding this subdivision, an institution that meets~~  
37 ~~the requirements of this subparagraph but also meets any of the~~  
38 ~~criteria of subdivision (a) shall be subject to the student and~~  
39 ~~consumer protections and the bureau's oversight and the~~  
40 ~~requirements of this chapter with respect to all of the vocational~~

1 ~~programs of instruction offered by the institution to the extent~~  
2 ~~these protections and requirements would otherwise apply, given~~  
3 ~~the characteristics and particulars of that program of instruction.~~

4 (8) Institutions that exclusively offer programs that cost five  
5 hundred dollars (\$500) or less.

6 *SEC. 3. Section 94740.3 of the Education Code is amended to*  
7 *read:*

8 94740.3. ~~“Non-WASC—regional—~~“Regional accrediting  
9 agency” means a regional accrediting agency, ~~other than the~~  
10 ~~Western Association of Schools and Colleges,~~ recognized by the  
11 United States Department of Education as possessing similar  
12 quality and rigor in accreditation standards, and limited to the  
13 following:

14 (a) Middle States Association of Colleges and Schools,  
15 Commission on Higher Education.

16 (b) New England Association of Schools and Colleges,  
17 Commission on Institutions of Higher Education.

18 (c) North Central Association of Colleges and Schools, The  
19 Higher Learning Commission.

20 (d) Northwest Association of Schools and of Colleges and  
21 Universities, Commission on Colleges and Universities.

22 (e) Southern Association of Colleges and Schools,  
23 Commission on Colleges.

24 (f) *Western Association of Schools and Colleges.*

25 *SEC. 4. Section 94740.5 of the Education Code is amended to*  
26 *read:*

27 94740.5. ~~“Non-WASC—regionally—~~“Regionally accredited  
28 institution” means a degree-granting institution that has been  
29 accredited by one of the ~~non-WASC~~ regional accrediting  
30 agencies listed in Section 94740.3. ~~It does not include any of the~~  
31 ~~following:~~

32 ~~(a) An institution within the meaning of paragraph (7) of~~  
33 ~~subdivision (b) of Section 94739 that has been accredited by the~~  
34 ~~Accrediting Commission for Senior Colleges and Universities or~~  
35 ~~the Accrediting Commission for Community and Junior Colleges~~  
36 ~~of the Western Association of Schools and Colleges.~~

37 ~~(b) An institution that has provisional accreditation.~~

38 ~~(c) An institution that has applied for accreditation.~~

39 ~~(d) An institution that is identified by an accrediting agency as~~  
40 ~~a candidate for accreditation.~~

1     ~~SEC. 3.~~

2     *SEC. 5.* Section 94746 of the Education Code is amended to  
3 read:

4     94746. “Vocational program” means an educational program  
5 having all of the following characteristics:

6     (a) The educational program consists of a job-training program  
7 or other instruction, training, or education that the institution  
8 represents will lead to, fit, or prepare students for employment in  
9 any occupation.

10    (b) The program is offered to students who do not possess a  
11 bachelor’s or graduate degree in the field of training.

12    (c) Students who complete all or a portion of the program are  
13 awarded a diploma, certificate, or occupational associate degree,  
14 including, but not necessarily limited to, the diplomas,  
15 certificates, and degrees listed in Section 94736.

16     *SEC. 6.* *Section 94802 of the Education Code is amended to*  
17 *read:*

18     94802. (a) Each institution desiring to operate in this state  
19 shall make application to the bureau, upon forms to be provided  
20 by the bureau. The application shall include, as a minimum, at  
21 least all of the following:

22     (1) A catalog published, or proposed to be published, by the  
23 institution containing the information specified in the criteria  
24 adopted by the bureau. The catalog shall include specific dates as  
25 to when the catalog applies.

26     (2) A description of the institution’s placement assistance, if  
27 any.

28     (3) Copies of media advertising and promotional literature.

29     (4) Copies of all student enrollment agreement or contract  
30 forms and instruments evidencing indebtedness.

31     (5) The name and California address of a designated agent  
32 upon whom any process, notice, or demand may be served.

33     (6) The information specified in Section 94808.

34     (7) The institution’s most current financial report as described  
35 in Section 94806.

36     (8) An application submitted by a ~~non-WASC~~ regionally  
37 accredited institution, as defined in Section 94740.5, shall  
38 include a copy of the certificate of accreditation issued by the  
39 ~~non-WASC~~ regional accrediting agency, as defined in Section  
40 94740.3.



(b) Each application shall be signed and certified under oath by the owners of the school or, if the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the corporate officers or their designee.

(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Article 8 (commencing with Section 94900) and Article 9 (commencing with Section 94915), and any investigation of the applicant as the bureau deems necessary or appropriate, the bureau either shall grant or deny approval to operate to the applicant.

*SEC. 7. Section 94905 of the Education Code is amended to read:*

94905. (a) (1) Any ~~non-WASC~~ regionally accredited institution, as defined in Section 94740.5, that is incorporated in another state and maintains its accredited status throughout the period of a student's course of study, and that is approved by the bureau to operate, may issue degrees, diplomas, or certificates. Except for continuing education programs and programs that are exclusively avocational or recreational in nature, accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with this section.

(2) A ~~non-WASC~~ regionally accredited institution approved to operate pursuant to this section, and any and all of its program offerings, are subject to the requirements of Article 13 (commencing with Section 94950).

(b) The bureau shall not approve a non-WASC regionally accredited institution to issue degrees, diplomas, or certificates pursuant to this section until the bureau has determined that the institution has complied with all of the following requirements:

(1) The institution meets the financial responsibility requirements set forth in paragraph (2) of subdivision (a) of Section 94804.

(2) The institution's cohort default rate on guaranteed student loans does not exceed 15 percent for the three most recent years, as published by the United States Department of Education.

(3) The institution submits to the bureau copies of its most recent Integrated Postsecondary Education Data System Report

1 of the United States Department of Education and its  
2 accumulated default rate.

3 (4) The institution pays fees in accordance with Section  
4 94932.

5 (5) The institution has submitted an application to operate for  
6 itself or a branch or satellite campus pursuant to Section 94802 or  
7 an application for renewal pursuant to Section 94840.

8 (c) A ~~non-WASC~~ regionally accredited institution shall be  
9 required to notify the bureau of the addition of a degree, diploma,  
10 or certificate program that is not included in the institution's  
11 initial or renewal application within 90 days of adding the  
12 program. If a ~~non-WASC~~ regional accrediting agency, as defined  
13 in Section 94740.3, requires approval of the additional degree,  
14 diploma, or certificate program, a copy of the certificate of  
15 accreditation or approval shall be included with the notice to the  
16 bureau, and no additional review or investigation of the program  
17 shall be required by the bureau. If the regional accrediting agency  
18 does not require approval of the additional degree, diploma, or  
19 certificate program, the institution shall include its most recent  
20 certificate of accreditation with the notice to the bureau, and no  
21 additional review or investigation of the program or institution  
22 shall be required by the bureau. Nothing in this subdivision shall  
23 be construed to limit the authority of the bureau to investigate  
24 student complaints.

25 (d) A ~~non-WASC~~ regionally accredited institution approved to  
26 operate pursuant to this section shall be subject to disciplinary  
27 action by the bureau if the institution loses its accreditation or  
28 federal financial aid eligibility due to an action taken by a  
29 ~~non-WASC~~ regional accrediting agency or federal authority.

30 (e) A ~~non-WASC~~ regionally accredited institution approved to  
31 operate pursuant to this section is exempt from the requirements  
32 of Sections 94900 and 94901, Article 9 (commencing with  
33 Section 94915), and Article 9.5 (commencing with Section  
34 94931), except for the applicable financial responsibility  
35 requirements referenced by paragraph (2) of subdivision (a) of  
36 Section 94804. Any ~~non-WASC~~ regionally accredited institution  
37 that is not approved to operate pursuant to this section may apply  
38 for approval to operate pursuant to Sections 94900 and 94901.

39 (f) The bureau shall annually include, in the report it prepares  
40 pursuant to Section 94995, its findings and recommendations

relative to institutions that have secured institutional or programmatic approval pursuant to this section.

*SEC. 8. Section 94945 of the Education Code is amended to read:*

94945. (a) The bureau shall assess each institution, including a ~~non-WASC~~ regionally accredited institution, as defined in Section 94740.5, except for an institution that receives all of its students' total charges, as defined in subdivision (k) of Section 94852, from third-party payers for the purpose of compliance with the provisions of this chapter that are related to the Student Tuition Recovery Fund. A third-party payer, for the purposes of this section, means an employer, government program, or other payer that pays a student's total charges directly to the institution when no separate agreement for the repayment of that payment exists between the third-party payer and the student. A student who receives third-party payer benefits for his or her institutional charges is not eligible for benefits from the Student Tuition Recovery Fund.

(1) (A) The amount assessed each institution shall be calculated only for those students who are California residents and who are eligible to be reimbursed from the fund. It shall be based on the actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid, and shall be assessed as tuition is paid or loans are funded on behalf of the student, based upon academic term. The amount of the assessment on an institution shall be determined in accordance with paragraphs (2) and (3).

(B) Each institution shall collect the amount assessed by the bureau in the form of a Student Tuition Recovery Fund fee from its new students, and remit these fees to the bureau during the quarter immediately following the quarter in which the fees were collected from the students, or from loans funded on behalf of the students, except that an institution may waive collection of the Student Tuition Recovery Fund fee and assume the fee as a debt of the institution. The student's subsequent disenrollment at the institution shall not relieve the institution of the obligation to pay the fee to the bureau, nor be the basis for refund of the fee to the student. An institution may not charge a fee of any kind for the collection of the Student Tuition Recovery Fund fee. An institution may refuse to enroll a student who has not paid, or

1 made provisions to pay, the appropriate Student Tuition  
2 Recovery Fund fee.

3 (C) For the purposes of this section, a “new student” means a  
4 student who signs his or her enrollment agreement on or after  
5 January 1, 2002. Those students who sign their enrollment  
6 agreement prior to January 1, 2002, are not “new students” for  
7 purposes of this section, and shall be assessed the Student Tuition  
8 Recovery Fund fee in effect prior to January 1, 2002, except that  
9 an institution may waive collection of the Student Tuition  
10 Recovery Fund fee in effect prior to January 1, 2002. Institutions  
11 electing to waive collection of the Student Tuition Recovery  
12 Fund fee shall disclose this fact to the student in the enrollment  
13 agreement, along with the amount of the fee paid on the student’s  
14 behalf to the bureau.

15 (2) The amount collected from a new student by an institution  
16 shall be calculated on the basis of the course tuition paid over the  
17 current calendar year, based upon the assessment rate in effect  
18 when the student enrolled at the institution, without regard to the  
19 length of time the student’s program of instruction lasts. For  
20 purposes of annualized payment, a new student enrolled in a  
21 course of instruction that is longer than one calendar year in  
22 duration shall pay fees for the Student Tuition Recovery Fund  
23 based on the amount of tuition collected during the current  
24 calendar year.

25 (3) The assessment made pursuant to this section shall be  
26 made in accordance with both of the following:

27 (A) Each new student shall pay a Student Tuition Recovery  
28 Fund assessment for the period of January 1, 2002, to December  
29 31, 2002, inclusive, at the rate of three dollars (\$3) per thousand  
30 dollars of tuition paid, rounded to the nearest thousand dollars.

31 (B) Commencing January 1, 2003, Student Tuition Recovery  
32 Fund fees shall be collected from new students at the rate of two  
33 dollars and fifty cents (\$2.50) per thousand dollars of tuition  
34 charged, rounded to the nearest thousand dollars. For new  
35 students signing enrollment agreements between January 1, 2002,  
36 and December 31, 2002, inclusive, the assessment rate of three  
37 dollars (\$3) per thousand dollars of tuition paid, rounded to the  
38 nearest thousand dollars, as provided in subparagraph (A) of this  
39 paragraph, shall remain the assessment rate for the duration of  
40 the student’s enrollment agreement.

1 (4) The bureau may levy additional reasonable special  
2 assessments on an institution under this section only if these  
3 assessments are required to ensure that sufficient funds are  
4 available to satisfy the anticipated costs of paying student claims  
5 pursuant to Section 94944.

6 (5) (A) The bureau may not levy a special assessment unless  
7 the balance in any account in the Student Tuition Recovery Fund  
8 falls below two hundred fifty thousand dollars (\$250,000), as  
9 certified by the Secretary of the State and Consumer Services  
10 Agency.

11 (B) A special assessment is a surcharge, collected by each  
12 institution from newly enrolled students, of up to 100 percent of  
13 that institution's regular assessment for four consecutive  
14 quarters. The affected student shall pay the surcharge  
15 simultaneously with his or her regular quarterly payment to the  
16 Student Tuition Recovery Fund.

17 (C) The bureau shall provide at least 90 days' notice of an  
18 impending special assessment to each affected institution. This  
19 notice shall also be posted on the bureau's Internet Web site.

20 (D) The bureau may apply any special assessment payments  
21 that it receives from an institution as a credit toward that  
22 institution's current or future obligations to the Student Tuition  
23 Recovery Fund.

24 (6) The assessments shall be paid into the Student Tuition  
25 Recovery Fund and credited to the appropriate account in the  
26 fund, and the deposits shall be allocated, except as otherwise  
27 provided for in this chapter, solely for the payment of valid  
28 claims to students. Unless additional reasonable assessments are  
29 required, no assessments for the degree-granting postsecondary  
30 educational institution account shall be levied during any fiscal  
31 year if, as of June 30 of the prior fiscal year, the balance in that  
32 account of the fund exceeds one million five hundred thousand  
33 dollars (\$1,500,000). Unless additional reasonable assessments  
34 are required, no assessments for the vocational educational  
35 institution account shall be levied during any fiscal year if, as of  
36 June 30 of the prior fiscal year, the balance in that account  
37 exceeds four million five hundred thousand dollars (\$4,500,000).  
38 However, regardless of the balance in the fund, assessments shall  
39 be made on any newly approved institution. Notwithstanding  
40 Section 13340 of the Government Code, the moneys so deposited

1 in the fund are continuously appropriated to the bureau for the  
2 purpose of paying claims to students pursuant to Section 94944.

3 (b) The bureau may deduct from the fund the reasonable costs  
4 of administration of the tuition recovery program authorized by  
5 Section 94944 and this section. The maximum amount of  
6 administrative costs that may be deducted from the fund, in a  
7 fiscal year, shall not exceed one hundred thousand dollars  
8 (\$100,000) from the degree-granting postsecondary educational  
9 institution account and three hundred thousand dollars  
10 (\$300,000) from the vocational educational institution account,  
11 plus the interest earned on money in the fund that is credited to  
12 the fund. Prior to the bureau's expenditure of any amount in  
13 excess of one hundred thousand dollars (\$100,000) from the fund  
14 for administration of the tuition recovery program, the bureau  
15 shall develop a plan itemizing that expenditure. The plan shall be  
16 subject to the approval of the Department of Finance.  
17 Institutions, including any ~~non-WASC~~ regionally accredited  
18 institution, as defined in Section 94740.5, except for schools of  
19 cosmetology licensed pursuant to Article 8 (commencing with  
20 Section 7362) of Chapter 10 of Division 3 of the Business and  
21 Professions Code and institutions that offer vocational or job  
22 training programs, that meet the student tuition indemnification  
23 requirements of a California state agency, that secure a policy of  
24 surety or insurance from an admitted insurer protecting their  
25 students against loss of paid tuition, or that demonstrate to the  
26 bureau that an acceptable alternative method of protecting their  
27 students against loss of prepaid tuition has been established, shall  
28 be exempted from this section.

29 (c) Reasonable costs in addition to those permitted under  
30 subdivision (b) may be deducted from the fund for any of the  
31 following purposes:

32 (1) To make and maintain copies of student records from  
33 institutions that close.

34 (2) To reimburse the bureau or a third party serving as the  
35 custodian of records.

36 (d) In the event of a closure by any approved institution under  
37 this chapter, any assessments that have been made against those  
38 institutions, but have not been paid into the fund, shall be  
39 recovered. Any payments from the fund made to students on  
40 behalf of any institution shall be recovered from that institution.

(e) In addition to civil remedies, the bureau may order an institution to pay previously unpaid assessments or to reimburse the bureau for any payments made from the fund in connection with the institution. Before any order is made pursuant to this section, the bureau shall provide written notice to the institution and notice of the institution's right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of the service of the notice, the bureau may order payment. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the bureau shall have all powers prescribed in that chapter. Within 30 days after the effective date of the issuance of the order, the bureau may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(f) In addition to any other action that the bureau may take under this chapter, the bureau may suspend or revoke an institution's approval to operate because of the institution's failure to pay assessments when due or failure to pay reimbursement for any payments made from the fund within 30 days of the bureau's demand for payment.

(g) The moneys deposited in the fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of those institutions or students.

~~SEC. 4.~~

*SEC. 9.* Section 94960 of the Education Code is amended to read:

94960. (a) (1) Any person claiming damage or loss as a result of any act or practice by a postsecondary or vocational educational institution or its agent, or both, that is a violation of this chapter or of the regulations adopted pursuant to this chapter, may file with the bureau a verified complaint against that institution or its agent, or both.

(2) The complaint shall set forth the alleged violation, and shall contain any other information as may be required by the bureau.

(b) (1) Pursuant to regulations that specify its procedures regarding complaint handling and disclosure, the bureau shall investigate any complaint, and document its findings and its

1 determination of the appropriate course of action and disposition  
2 of the complaint.

3 (2) The bureau shall adopt regulations that specify its  
4 procedures for complaint handling and complaint disclosure. The  
5 bureau shall make every reasonable attempt to ensure that the  
6 first public hearing on its proposed regulations is convened prior  
7 to June 30, 2002. The requirements of this subdivision shall not  
8 preclude the bureau from fulfilling its complaint handling  
9 responsibilities pending adoption of the regulations.

10 (3) The regulations adopted pursuant to paragraph (2) shall  
11 include, but not necessarily be limited to, both of the following:

12 (A) A procedure for handling the original student complaints  
13 by mail that affords the institution that is the subject of the  
14 complaint an opportunity to respond.

15 (B) Additional options, including teleconferencing and an  
16 administrative law hearing and a complaint resolution hearing  
17 conducted by the bureau program administrator or his or her  
18 designee. Participation in this hearing shall not prevent any party  
19 to the complaint from exercising any other means of redress  
20 available under the law.

21 (4) Nothing in this section shall be construed to prevent a  
22 complainant, institution, or the bureau from using additional  
23 appeals that are available under state law.

24 (c) If, upon all the evidence at a hearing, the bureau finds that  
25 an institution or its agent, or both, have engaged in, or are  
26 engaging in, any act or practice that violates this chapter or the  
27 regulations adopted pursuant to this chapter, the bureau shall  
28 report that evidence to the Attorney General. The bureau, based  
29 on its own investigation or the evidence adduced at a hearing, or  
30 both, also may commence an action to revoke an institution's  
31 approval to operate or an agent's permit.

32 (d) Complaints received by the bureau pertaining to  
33 institutions accredited by the Western Association of Schools and  
34 Colleges shall be forwarded to the association when the bureau  
35 has no oversight responsibility for the programs of instruction  
36 that are the subjects of those complaints. The bureau shall  
37 ~~transmit~~ *forward* to the Western Association of Schools and  
38 Colleges any complaint that is related to a program offered by an  
39 institution accredited by that association that is *not* exempt from  
40 the bureau's oversight.



1     (e) A person entitled to bring an action for the recovery of  
2     damages or other relief shall not be required to file a complaint  
3     pursuant to this section, or to pursue or exhaust any  
4     administrative process or remedy before bringing the action.

O